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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,941	08/02/2001	Victor Kouznetsov	NETAP007	8372
28875	7590	11/10/2004	EXAMINER	
Zilka-Kotab, PC P.O. BOX 721120 SAN JOSE, CA 95172-1120			LIN, KELVIN Y	
			ART UNIT	PAPER NUMBER
			2142	

DATE MAILED: 11/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/921,941

Applicant(s)

KOUZNETSOV ET AL.

Examiner

Kelvin Lin

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## Detailed Action

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-11, 13-24, and 26 are rejected under 35 USC 102(e) as being anticipated by Bowman-Amuah (U.S. Patent 6438594).
3. Regarding claim 1, Bowman-Amuah teaches a method for secure automatic selection of a designated service provider in a Peer-to-peer network, comprising:
  - broadcasting a digitally signed election initiating packet over the network by a sending node in the network, the election packet containing a value for at least one criteria (Bowman-Amuah, col.86, l.47-49, col.92,l.21-22, col.113, l.15-20);
  - awaiting one of expiry of response time-out period and receipt of a response election packet (Bowman-Amuah, col.79, l.42-44);
  - broadcasting a digitally signed election result packet indicating the sending node is the designated service provider if expiry of response

time-out period occurs prior to receipt of a response election packet

(Bowman-Amuah, col.1, l.20, col. 285, l.4-12) ; and

- awaiting for, verifying, and storing election result in an election result broadcast if receipt of a response election packet occurs prior to expiry of response time-out period (Bowman-Amuah, col.285, l.4-22).

4. Regarding claim 2, Bowman-Amuah further discloses method for secure automatic selection of a designated service provider of claim 1, the election result broadcast containing a value for the at least one criteria, wherein said verifying election result includes verifying that the value for at least one criteria in the response election packet wins over the value for at least one criteria in the initiating election packet (Bowman-Amuah, col.285, l. 23-63).
5. Regarding claim 3, Bowman-Amuah further discloses a method for secure automatic selection of a designated service provider of claim 1, further comprising verifying a digital signature of a response election packet upon receipt of the response election packet prior to expiry of response time-out period (Bowman-Amuah, col.86, l.9-25).
6. Regarding claim 4, Bowman-Amuah further discloses a method for secure automatic selection of a designated service provider of claim 1, the response election packet containing a value for the at least one criteria, further comprising verifying that the value for at least one criteria in the response election packet wins over the value for at least one criteria in the initiating electron packet

(Bowman-Amuah, col.91, l.19-54).

7. Regarding claim 5, Bowman-Amuah further discloses a method for secure a automatic selection of a designated service provider of claim 1, wherein the at least one criteria is selected from the group consisting of node name, MAC (media access control) address, Internet access, bandwidth, operating System, and processor speed (Bowman-Amuah, col.94, l.35-40).
8. Regarding claim 6, Bowman-Amuah further discloses a method for secure a method for secure automatic selection of a designated service provider of claim 1, wherein the response time-out period is at least a sum of maximum delay election response period and round trip transmission time (Bowman-Amuah, Fig. 96, col. 93, l.1-3).
9. Regarding claim 7, Bowman-Amuah further discloses a method for secure automatic selection of a designated service provider of claim 1, wherein said verifying the election result in the election result broadcast includes verifying a digital signature of the election result broadcast to ensure integrity of the broadcast (Bowman-Amuah, col.208, l.48-61).
10. Regarding claim 8, Bowman-Amuah further discloses a method for secure automatic selection of a designated service provider of claim 1, wherein each of the digitally signed election initiating packet and said digitally signed election result packet is signed by a 1024-bit Verisign digital certificate (Bowman-Amuah, col.83, l.40-41).
11. Regarding claim 9, Bowman-Amuah further discloses a method for secure

automatic selection of a designated service provider in a peer-to-peer network, comprising:

- receiving and verifying a digitally signed election initiating packet by a receiving node from a sending node in the network, the election packet containing a value for at least one criteria (Bowman-Amuah, col.222, l. 60-67, col. 223, l. 1-55);
- determining one of the receiving node and sending node as current winner by comparing the value for the at least one criteria in the election initiating packet and a value for the at least one criteria of the receiving node (Bowman-Amuah, col. 307, l.55-60) ;
- awaiting for, verifying, and storing election result in an election result broadcast if the sending node is the current winner (Bowman-Amuah, col.285, l.13-63);
- awaiting one of expiry of response delay period and receipt of an additional election packet if the receiving node is the current winner (Bowman-Amuah, col. 247, l.37-61); and
- broadcasting a digitally signed election result packet indicating the receiving node is the designated service provider if expiry of response delay period occurs prior to receipt of any additional election packet (Bowman-Amuah, col. 247, l.37-61).

12. Regarding claim 10, Bowman-Amuah further discloses a method for secure automatic selection of a designated service provider in a peer-to-peer network of

claim 9, wherein said verifying election result broadcast includes verifying a digital signature of the election result broadcast (Bowman-Amuah, col. 287, l.61-67) .

13. Regarding claim 11, Bowman-Amuah further discloses a method for secure automatic selection of a designated service provider in a peer-to-peer network of claim 9, wherein the at least one criteria is selected from the group consisting of node name, MAC (media access control) address, Internet access, bandwidth, operating system, and processor speed (Bowman-Amuah, col.94, l.35-40).
14. Regarding claim 13, Bowman-Amuah further discloses a method for secure automatic selection of a designated service provider in a peer-to-peer network of claim 9, wherein each of the election initiating packet and the election result packet is digitally signed by a 1024-bit Verisign digital certificate (Bowman-Amuah, col.83, l.40-41).
15. Regarding claims 14-21 have similar limitations as claims 1-8.  
Therefore, claims 14-21 are rejected under Bowman-Amuah for the same reasons set forth in the rejection of claims 1-8.
16. Regarding claims 22-26 have similar limitations as claims 9-13.  
Therefore, claims 22-26 are rejected under Bowman-Amuah for the same reasons set forth in the rejection of claims 9-13.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 12, and 25 are rejected under 35 U.S.C 103(a) as being unpatentable over Bowman-Amuah in view of Kouznetsov (US Patent 6782527).
18. Regarding claims 12, and 25 Bowman-Amuah differs from the claimed invention in that it does not explicitly indicate the randomly generated delay, instead of stating " ... listener on the server must be configured to accommodate for any delay on receipt of the client response" (Bowman-Amuah, col. 275, l.40-42). Kouznetsov teaches the random time delay generator executing in the first and second network-coupled computing appliances (Kouznetsov, col. 12, l.53-56). With the same client/server peer-to-peer distributed network environment, Bowman-Amuah's time delay scheme can adopt any flexible technology. Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Kouznetsov's randomly time delay scheme with Bowman-Amuah's response period. And improves the utilization of the bandwidth and resources efficiently.



### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to application's disclosure.

- Kitain et al., (Patent No. 5864871) Information delivery system and method including on-line entitlements
- Levy et al., (Patent No. 6212633) Secure Data Communication over a Memory-mapped Serial Communication Interface Utilizing a Distributed Firewall.
- Rowney et al., (Patent No. 5987140) System, Method and Article of Manufacture for Secure Network Electronic Payment and Credit Collection.
- IEEE – Marvin Sirbu et al., NetBill: An Internet Commerce System Optimized for Network Delivered Services, IEEE Compcon Conference (Mar., 1995).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelvin Lin whose telephone number is 703-605-1726. The examiner can normally be reached on Flexible 4/9/5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey can be reached on 703-305-9705. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KYL  
10/19/04

  
JACK D. HARVEY  
SUPERVISORY PATENT EXAMINER